United States Department of Labor Employees' Compensation Appeals Board

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L.F., Appellant)
and) Docket No. 20-1047) Issued: July 13, 2021
U.S. POSTAL SERVICE, POST OFFICE, Indianapolis, IN, Employer)
Appearances:) Case Submitted on the Record
Kelley Craig, Esq., for the appellant ¹ Office of Solicitor, for the Director	2.12.2.12.11.11.00.01.11.00.10.01.00

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

On April 17, 2020 appellant, through counsel, filed a timely appeal from an October 25, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 20-1047.

On June 20, 2016 appellant, then a 56-year-old mail processing clerk, filed an occupational disease claim (Form CA-2) alleging that on or before December 1, 2012, she sustained cervical spine and bilateral shoulder conditions due to factors of her federal employment, including casing mail.² In an attached statement, she attributed her conditions to her job duties from December 1, 2012 onward while working in a modified-duty position offered to accommodate accepted bilateral upper extremity conditions, OWCP File No. xxxxxxx811.³ Appellant noted that she first became

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² OWCP assigned the present claim File No. xxxxxx165.

³ OWCP File No. xxxxxxx811 was accepted for bilateral carpal tunnel syndrome and bilateral cubital tunnel syndrome.

aware of her claimed conditions and their relation to her federal employment on December 1, 2012.

By decision dated October 19, 2016, OWCP denied the claim, finding that the medical evidence of record was insufficient to establish causal relationship between the claimed conditions and the accepted employment factors.

Appellant submitted a series of requests for reconsideration. By decisions dated January 4, March 31, and July 12 2017, December 13, 2018, and October 25, 2019, OWCP denied modification in each instance. The Board has duly considered the matter and concludes that this OWCP's procedures provide that cases should be case is not in posture for decision. administratively combined when correct adjudication of the issues depends on frequent crossreferencing between files or when two or more injuries occur to the same part of the body.⁴ For example, if a new injury is reported for an employee who previously filed an injury claim for a similar condition or a condition relating to the same part of the body, or when two or more separate injuries have occurred on the same date, doubling is required.⁵ Herein, appellant has a prior accepted occupational disease claim for bilateral carpal tunnel syndrome and bilateral cubital tunnel syndrome caused by employment factors on or before January 1, 2002, assigned OWCP File No. xxxxxx811. Appellant then filed an occupational disease claim for head, cervical spine, and bilateral shoulder conditions sustained on and after December 1, 2012 in the rehabilitation position offered her under OWCP File No. xxxxxx811, which is the claim presently before the Board assigned OWCP File No. xxxxxx165.

For a full and fair adjudication, the Board finds that the case must be returned to OWCP to administratively combine the current case record with OWCP File No. xxxxxx811, so it can properly determine whether appellant has met her burden of proof to establish a medical condition causally related to the accepted employment factors in the present claim. Following this and other such further development as OWCP deems necessary, it shall issue a *de novo* decision. Accordingly,

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

⁵ Id., W.H., Docket No. 20-0986 (issued April 27, 2021); L.H., Docket No. 18-1777 (issued July 2, 2019).

IT IS HEREBY ORDERED THAT the October 25, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: July 13, 2021 Washington, DC

> Alec J. Koromilas, Chief Judge Employees' Compensation Appeals Board

> Janice B. Askin, Judge Employees' Compensation Appeals Board

> Patricia H. Fitzgerald, Alternate Judge Employees' Compensation Appeals Board